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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,344	09/05/2003	Patrick T. Rose	13610-0003	7806

25267 7590 09/16/2004

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EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/656,344

Applicant(s)

ROSE ET AL.

Examiner

Kofi A. Schusterbrandt

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☒ Claim(s) 5 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>052404 & 090503</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This first Office Action on the merits is in response to Applicant's Response to Restriction received in the Office on August 23, 2004 in this case.

Election/Restrictions

Applicant's election without traverse of Group 1, claims 1-16, in the reply filed on August 23, 2004 is acknowledged. Claims 17-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Information Disclosure Statement

The information disclosure statements (IDSs) submitted on September 5, 2003 and May 24, 2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

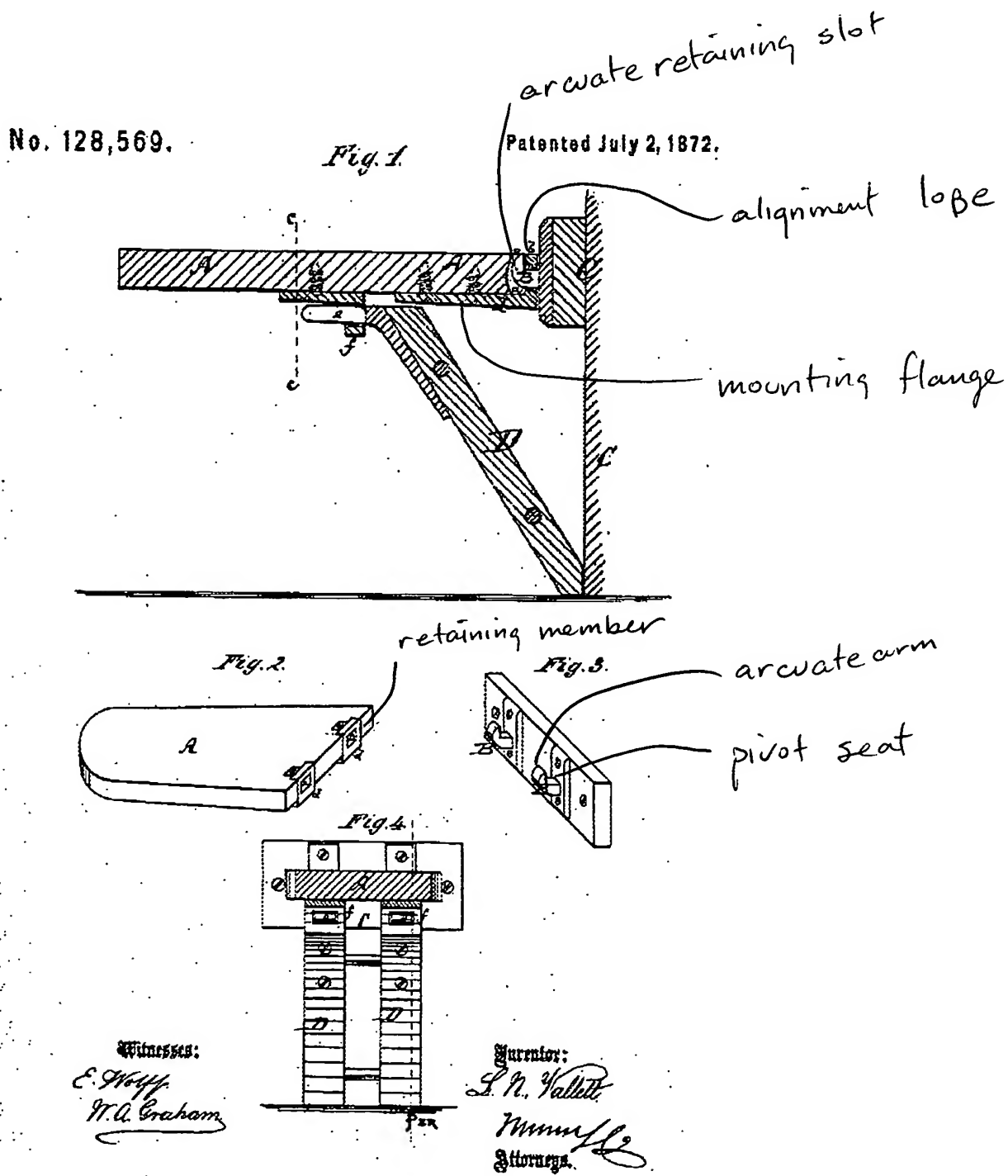
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

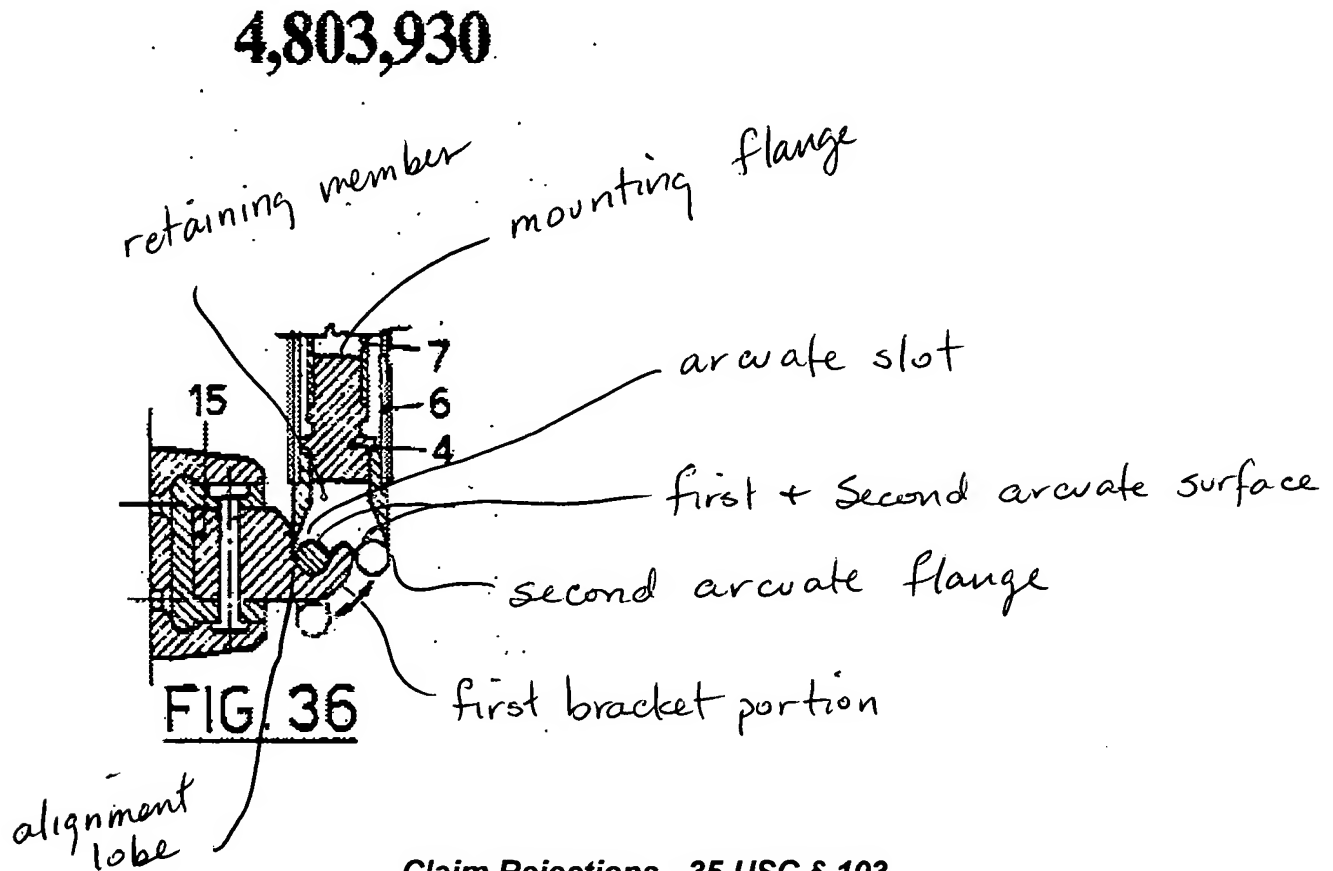
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Vallett (128,569). Vallett teaches each feature of the claimed invention as shown below.



Claims 6, 9, 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Crocoli (4,803,930). Crocoli teaches each feature of the claimed invention as shown below. Regarding claim 15, Crocoli teaches retainers (4, Figure 35).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vallett (128,569), in view of Kelly (856,962). Vallett teaches, substantially, each feature of the

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claimed invention as discussed above. Vallett does not teach a height adjuster. Kelly, however, teaches the well known leg height adjuster (26). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Vallett's invention to include Kelly's height adjustment feature in order to make the table more flexibly stable.

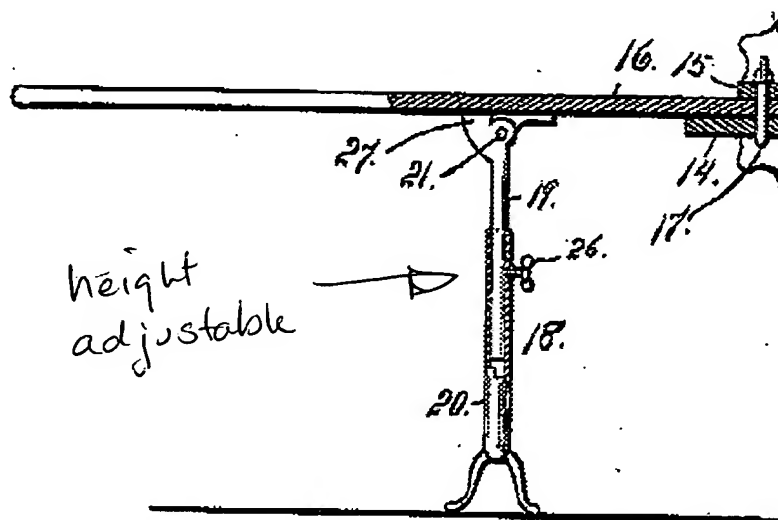


Fig. 2.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallett (128,569), in view of Crocoli (4,803,930). Vallett teaches, substantially, each feature of the claimed invention as discussed above including a second arcuate surface and first surface that is not necessarily arcuate. Vallett, therefore, does not teach a first arcuate surface. Crocoli, however, teaches a first arcuate surface as shown below. It would have been obvious to one of ordinary skill in the art at the time of invention to

have modified Vallett's first surface to be arcuate in order to more smoothly make the connection between the first and second bracket.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallett (128,569), in view of Crocoli (4,803,930) and Kelly (856,962). Vallett teaches, substantially, each feature of the claimed invention as discussed above including a leg and a second arcuate surface and first surface that is not necessarily arcuate. Vallett, therefore, does not teach a first arcuate surface. Vallett also does not teach a height adjustable leg. Crocoli, however, teaches a first arcuate surface as shown below and Kelly teaches a height adjustable leg system. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Vallett's first surface to be arcuate in order to more smoothly make the connection between the first and second bracket. Furthermore, it would have been obvious to one of ordinary skill to have modified Vallett to include Kelly's leg support system in order to be able to adjust for wall mounting height errors.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vallett (128,569), in view of Crocoli (4,803,930), Kelly (856,962) and Willis (2,721,777). Vallett teaches, substantially, each feature of the claimed invention as discussed above including a leg and a second arcuate surface and first surface that is not necessarily arcuate. Vallett, therefore, does not teach a first arcuate surface. Vallett also does not teach a lock for holding the leg vertical. Crocoli, however, teaches a first arcuate surface as shown below, Kelly teaches, an adjustable leg and Willis teaches a coupler for holding the leg parallel to the table top. It would have been obvious to one of

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ordinary skill in the art at the time of invention to have modified Vallett's first surface to be arcuate in order to more smoothly make the connection between the first and second bracket. Furthermore, it would have been obvious to one of ordinary skill to have modified Vallett to include Kelly's leg system in order to be able to adjust for wall mounting height errors. Moreover, it would have been obvious to have modified Vallett's system to include Willis' lock support system in order to be able to efficiently store the leg.

Claims 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vallett (128,569), in view of Crocoli (4,803,930) and Kelly (856,962). Vallett teaches, substantially, each feature of the claimed invention as discussed above including a second arcuate surface and first surface that is not necessarily arcuate. Vallett, therefore, does not teach a first arcuate surface. Vallett also does not teach a second lock for coupling the leg in an orthogonal position. Crocoli, however, teaches a first arcuate surface as shown below. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Vallett's first surface to be arcuate in order to more smoothly make the connection between the first and second bracket. Furthermore, it would have been obvious to have modified Vallett to include Kelly's leg lock (27) in order to couple Vallett's leg in an orthogonal position. Coupling occurs when the lock (27) pushes down and the ground pushes up.

Allowable Subject Matter

Claims 5 and 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Pertinent Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '676 to Feigel; '635 to Flaherty; '331 to Diletto; and '438 to Arrow each teach foldable table structures.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kofi Schulterbrandt
September 9, 2004

LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER

